

PROPOSING AMENDMENT TO THE CONSTITUTION RELATING TO ADOPTION OF HOME RULE CHARTER BY CERTAIN COUNTIES.

S. J. R. No. 3.]

SENATE JOINT RESOLUTION.

A Joint Resolution proposing an Amendment to the Constitution of the State of Texas by adding to Article IX thereof a new section to be numbered three, providing that any county having a population of sixty-two thousand (62,000) or more may adopt a Home Rule Charter for the establishment and regulation of its government, and which Charter may provide that the Commissioners' Court may serve as the governing body or that some other body may act in lieu thereof; and providing the method of adopting such Charter and fixing the powers, as well as limitations on the powers of the governing body of any county adopting such Charter; and providing the method of compensating certain officers of such counties and for the consolidation and creation of said offices by the governing body of such counties; and providing for the partial or complete merging of the governments of cities and towns within the county with the county government; and providing for contracts between the county, city, town and district within the county to perform one or more functions; and providing for the assessment and levying of taxes in counties adopting any such Charter, and for the assessment and levying and collection of taxes in merged incorporated cities and towns; and providing for the defining and redefining of the boundaries of cities and towns, and for the defining of urban areas in such counties; and providing for the borrowing of money and the refunding of lawful debts by any such county, and fixing the character of obligations to be issued therefor, and requiring the levying of a tax sufficient to retire obligations prior to the issuance of such obligations; and fixing limitations upon the powers and duties of the governing board of all such counties with reference to levying and assessing taxes and incurring obligations; and providing for the abandonment, revocation and amendment of such Charter; and providing that the Legislature may pass all laws consistent herewith which may be necessary to carry out the intent and purposes thereof; and requiring the submission of this amendment at an election, fixing the clauses which shall be printed on the ballot of such election; and providing for the issuance of a proclamation by the Governor ordering such election and fixing the amount of an appropriation to defray the expenses of such election.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Article IX of the Constitution of Texas be amended by adding thereto a section to be Section 3, which shall provide:

"Section 3. (1) Holding the belief that the highest degree of local self government which is consistent with the efficient conduct of those affairs by necessity lodged in the Nation and the State will prove most responsive to the will of the people, and result to reward their diligence and intelligence by greater economy and efficiency in their local governmental affairs, it hereby is ordained:

"(2) Any county having a population of sixty-two thousand (62,000) or more according to the then last Federal Census

may adopt a County Home Rule Charter, to embrace those powers appropriate hereto, within the specific limitations hereinafter provided. It further is provided that the Legislature, by a favoring vote of two-thirds of the total membership of both the Senate and the House of Representatives, may authorize any county, having a population less than that above specified, to proceed hereunder for the adoption of a Charter; however, as a condition for such authorization, it is required that notice of the intent to seek Legislative authority hereunder must be published in one or more newspapers, to give general circulation in the county affected, not less than once per week for four (4) consecutive weeks, and the first of such publications shall appear not less than thirty (30) days next prior to the time an Act making proposal hereunder may be introduced in the Legislature. No County Home Rule Charter may be adopted by any county save upon a favoring vote of the resident qualified electors of the affected county. In elections submitting to the voters a proposal to adopt a Charter (unless otherwise provided by a two-thirds vote of the total membership of each House of the Legislature) the votes cast by the qualified electors residing within the limits of all the incorporated cities and towns of the county shall be separately kept but collectively counted and the votes of the qualified electors of the county who do not reside within the limits of any incorporated city or town likewise shall be separately kept and separately counted, and unless there be a favoring majority of the votes cast within and a favoring majority of the votes cast without such collective cities and towns, the Charter shall not be adopted. It is expressly forbidden that any such Charter may inconsonantly affect the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway and health systems, or any other department of the State's superior government. Nothing herein contained shall be deemed to authorize the adoption of a Charter provision inimical to or inconsistent with the sovereignty and established public policies of this State, and no provision having such vice shall have validity as against the State. No Charter provision may operate to impair the exemption of homesteads as established by this Constitution and the Statutes relating thereto.

"(3) a. A Charter hereunder may provide: the continuance of a County Commissioners' Court, as now constituted, to serve as the governing body of a county to operate hereunder; or, may provide for a governing body otherwise constituted, which shall be elective, and service therein shall be upon such qualifications, for such terms, under such plan of representation, and upon such conditions of tenure and compensation as may be fixed by any such Charter. The terms for service in such governing body may exceed two (2) years, but shall not exceed six (6) years. In any event, in addition to the powers and duties provided by any such Charter, such governing body shall exercise all powers, and discharge all duties which, in the ab-

sence of the provisions hereof, would devolve by law on County Commissioners and County Commissioners' Courts. Further, any such Charter may provide for the organization, reorganization, establishment and administration of the government of the county, including the control and regulation of the performance of and the compensation for all duties required in the conduct of the county affairs, subject to the limitations herein provided.

"b. A Charter hereunder may provide that Judges of County Courts (including that County Court designated in this Constitution), and Justices of the Peace be compensated upon a salary basis in lieu of fees. The jurisdiction of the County Court designated in this Constitution, and the duties of the Judges thereof, may be confined to that general jurisdiction of a probate Court which elsewhere is defined in this Constitution. The office of Justice of the Peace may be made either elective or appointive. Other than as herein provided, no such Charter shall provide for altering the jurisdiction or procedure of any Court. The duties of District Attorney and/or County Attorney may be confined to representing the State in civil cases to which the State is a party and to enforcement of the State's Penal Code, and the compensation of said attorneys may be fixed on a salary basis in lieu of fees.

"c. Save as hereinabove and hereinafter otherwise provided, such Charters, within the limits expressed therein, may invest the governing body to be established for any county electing to operate hereunder with the power to create, consolidate or abolish any office or department, whether created by other provisions of the Constitutions or by statute, define the duties thereof, fix the compensation for service therein, make the same elective or appointive and prescribe the time, qualifications and conditions for tenure in any such office; save, that no such Charter other than as hereinbefore authorized, shall provide to regulate the status, service, duties or compensation of members of the Legislature, Judges of the Courts, District Attorneys, County Attorneys, or any office whatever by the law of the State required to be filled by an election embracing more than one county. Excepting herefrom nominations, elections or appointments to offices, the terms whereof may not have expired prior to the adoption of this Amendment to the Constitution, at such time as a Charter provision adopted hereunder may be in effect (save as to those offices which must continue to be elective, as herein elsewhere specified), all terms of county officers and all contracts for the giving of service by deputies under such officers, may be subject to termination by the administrative body of the county, under an adopted Charter so providing, and there shall be no liability by reason thereof.

"d. Any county electing to operate hereunder shall have the power, by Charter provision, to levy, assess and collect taxes, and to fix the maximum rate for ad valorem taxes to be levied for specific purposes, in accordance with the Constitution and

laws of this State, provided, however, that the limit of the aggregate taxes which may be levied, assessed and collected hereunder shall not exceed the limit or total fixed, or hereafter to be fixed, by this Constitution to control counties, and the annual assessment upon property, both real, personal and mixed, shall be a first superior and prior lien thereon.

"e. In addition to the powers herein provided, and in addition to powers included in County Home Rule Charters, any county may, by a majority vote of the qualified electors of said county, amend its Charter to include other powers, functions, duties and rights which now or hereafter may be provided by this Constitution and the statutes of the State for counties.

"(4). Any county operating hereunder shall have the power to borrow money for all purposes lawful under its Charter, to include the refunding of a lawful debt, in a manner conforming to the General Laws of the State, and may issue therefor its obligations. Such obligations, other than those to refund a lawful debt, shall not be valid unless authorized by a majority of all votes cast by those resident qualified voters of the area affected by the taxes required to retire such obligations, who may vote thereon. In case of county obligations, maturing after a period of five (5) years, the same shall be issued to mature serially, fixing the first maturity of principal at a time not to exceed two (2) years next after the date of the issuance of such obligations. Such obligations may pledge the full faith and credit of the county; but in no event shall the aggregate obligations so issued, in principal amount outstanding at any one time, exceed the then existing Constitutional limits for such obligations and such indebtedness and its supporting tax shall constitute a first and superior lien upon the property taxable in such county. No obligation issued hereunder shall be valid unless prior to the time of the issuance thereof there be levied a tax sufficient to retire the same as it matures, which tax shall not exceed the then existing Constitutional limits.

"(5). Such Charter may authorize the governing body of a county operating hereunder to prescribe the schedule of fees to be charged by the officers of the county for specified service, to be in lieu of the schedule for such fees prescribed by the General Laws of the State; and, to appropriate such fees to such funds as the Charter may prescribe; provided, however, no fee for a specified service shall exceed in amount the fee fixed by General Law for that same service. Such Charters as to all judicial officers, other than District Judges, may prescribe the qualifications for services, provided the standards therefor be not lower than those fixed by the General Laws of the State.

"(6) a. Subject to the express limitations upon the exercise of the powers by this subdivision to be authorized, such Charters may provide (or omit to provide) that the governmental and/or proprietary functions of any city, town, district or other defined political subdivision (which is a governmental agency

and embraced within the boundaries of the county) be transferred, either as to some or all of the functions thereof, and yielded to the control of the administrative body of the county. No such transfer or yielding of functions may be effected, unless the proposal is submitted to a vote of the people, and, unless otherwise provided by a two-thirds vote of the total membership of each House of the Legislature, such a proposal shall be submitted as a separate issue, and the vote within and without any such city, town, district, or other defined governmental entity, shall be separately cast and counted, and unless two-thirds of the qualified votes cast within the yielding defined governmental entity, and a majority of the qualified votes cast in the remainder of the county, favor the proposed merger, it shall not be effected. In case of the mergers hereby authorized, without express Charter provision therefor, in so far as may be required to make effective the object of the proposed merger, the county shall succeed to all the appropriate lawful powers, duties, rights, procedures, restrictions and limitations which prior to the merger were reposed in, or imposed upon, the yielding governmental agency. Particularly, it is provided that the power to create funded indebtedness and to levy taxes in support thereof may be exercised only by such procedures, and within such limits, as now are, or hereafter may be, provided by law to control such appropriate other governmental agencies were they to be independently administered. Such mergers may be effected under proposed contracts between the county and any such yielding governmental agency, to be approved at an election as hereinbefore provided for. In order to increase governmental efficiency and effect economy the county may contract with the principal city of the county to perform one or more of its functions, provided such contracts shall not be valid for more than two (2) years.

“b. In case of the partial or complete merger of the government of a city operating under a Home Rule Charter, with the government of a county operating hereunder, those city Charter provisions affected thereby shall cease to control, and the county Charter provisions shall control.

“c. When any embraced incorporated city or town elects to merge its governmental functions with those of the county under the provisions hereof, such Charter may provide for defining or redefining the boundaries of such cities and towns, provided, however, that in defining or redefining the boundaries of such cities and towns, such boundaries may be extended only to include those areas contiguous to such cities as are urban in character; and as to such cities or towns and for the benefit thereof the county, in addition to the primary city and county tax herein authorized and any other lawful district tax, may levy and collect taxes upon the property taxable within such city or town as defined or redefined, within the limits authorized by Sections 4 and 5 of Article XI of this Constitution, (or any Amendment thereof) for incorporated cities according to

the population, provided that no tax greater than that existing at the time of such merger or for any added purpose shall be imposed upon any such city or town unless authorized by a majority of all votes cast by the resident qualified voters of such city or town.

"d. Areas urban in character though not incorporated, under appropriate Charter provision may be defined as such by the governing body of the county, provided, however, that no portion of the county shall be defined as an urban area unless it has sufficient population to entitle it to incorporate under the then existing laws of the State; and no such urban area, when created, shall be vested with any taxing or bonding power which it would not possess if it were operating as a separate incorporated unit under the then existing Constitutional and Statutory provisions of this State; and provided further that the governing body of the county for the government of such areas shall have and exercise all powers and authority granted by law to the governing bodies of similar areas when separately incorporated as a city or town, and such areas shall be subject to additional taxation within the same Constitutional limits as control taxation for a city or a town of like population. Likewise such Charter may provide for the governing board of the county subject to existing Constitutional and statutory provisions to define, create and administer districts, and have and exercise the powers and authority granted by the Constitution and laws relative to the same.

"(7). No provision of this Constitution inconsonant with the provisions of this Section 3, of Article IX, shall be held to control the provisions of a Charter adopted hereunder, and conforming herewith. Charters adopted hereunder shall make appropriate provision for the abandonment, revocation, and amendment thereof, subject only to the requirements that there must be a favoring majority of the vote cast upon such a proposal, by the qualified resident electors of the county; and, no Charter may forbid amendments thereof for a time greater than two (2) years. The provisions hereof shall be self-executing, subject only to the duty of the Legislature to pass all laws (consistent herewith) which may be necessary to carry out the intent and purpose hereof. Further, the Legislature shall prescribe a procedure for submitting to decision, by a majority vote of the electors voting thereon, proposed alternate and elective Charter provisions."

SEC. 2. The foregoing Constitutional Amendment shall be submitted to the qualified electors of the State at an election to be held throughout the State on the fourth Saturday in August, 1933, at which election all ballots shall have printed thereon the following:

"For the Amendment to Article IX of the Constitution of Texas, adding Section 3, providing authority for the adoption of a Home Rule Charter by the voters in counties having a population of sixty-two thousand (62,000) or more, to effect

more sufficient and economical government within such counties, and to authorize mergers of separate governmental agencies within such counties as may from time to time be authorized by vote of the people therein."

"Against the Amendment to Article IX of the Constitution of Texas, adding Section 3, providing authority for the adoption of a Home Rule Charter by the voters in counties having a population of sixty-two thousand (62,000) or more, to effect more efficient and economical government within such counties, and to authorize mergers of separate governmental agencies within such counties as may from time to time be authorized by vote of the people therein."

Each voter shall scratch out one of the above listed clauses on such ballot, leaving unscratched that particular clause which expresses his vote on the proposed Amendment to which it relates.

SEC. 3. The Governor of this State is hereby directed to issue the necessary proclamation ordering an election in conformity herewith to determine whether or not the proposed Constitutional Amendment set forth herein shall be adopted, and the Governor shall have the same published as required by the Constitution and laws of this State.

SEC. 4. The sum of Five Thousand (\$5,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated from any funds in the State Treasury not otherwise appropriated to defray the expenses of printing said proclamation and holding such election.

[NOTE.—S. J. R. No. 3 passed the Senate, April 24, 1933, by a vote of 21 yeas, 2 nays; Senate refused to concur in House amendments, May 3, 1933, and Conference Committee was appointed; Conference Committee Report was adopted, May 12, 1933, by a vote of 24 yeas, 0 nays; passed the House, with amendments, May 2, 1933, by a vote of 118 yeas, 7 nays; Conference Committee Report was adopted, May 11, 1933, by a vote of 112 yeas, 10 nays.]

Filed in the Department of State, May 16, 1933, with the Governor's signature.